

August 9, 2005

DEBRA MANJARREZ
PO BOX 246
111 NORTH FRONTAGE RD
WAPATO WA 98951

Subject: Complaint filed against Juan Orozco – PDC Case #05-135

Dear Ms. Manjarrez:

The Public Disclosure Commission (PDC) staff has completed its investigation of your complaint received February 2, 2005 alleging that Juan Orozco sponsored political advertising which failed to include sponsor identification, an alleged violation of RCW 42.17.510, and that Mr. Orozco failed to report expenses for phone banking and mailed political advertising either as a political committee, an alleged violation of RCW 42.17.040, .080, and .090, or as independent expenditure activity, an alleged violation of RCW 42.17.100.

PDC staff reviewed your complaint in light of the following statutes and policy:

RCW 42.17.510 requires that all written political advertising include the sponsor's name and address.

RCW 42.17.020(33) defines a political committee as any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

RCW 42.17.080 and .090 require political committees to file timely, accurate reports of contributions and expenditures.

RCW 42.17.100 requires sponsors of Independent Expenditure political advertising that supports or opposes a candidate or ballot measure and is valued at \$100 or more in the aggregate to file a special report disclosing information about the expenditure. The initial report must be filed within five days of making the expenditure.

PDC Policy Based on Effect of U.S. Supreme Court Decision – Based on a U.S. Supreme Court decision (*McIntyre v. Ohio Elections Commission*) concerning sponsor identification on political leaflets, the PDC has determined that the sponsor's name and address may be left off a political ad that meets all of the following criteria:

- The sponsor is an individual acting on his or her own behalf, independent of any candidate, political committee or other organization or entity;
- The sponsor personally produces and distributes the ad (or pays for it to be produced or distributed) and receives no donations from others to assist with this effort;
- The ad supports or opposes a state-wide or local ballot proposition (not a candidate);
- The ad costs less than \$100 in the aggregate to produce and distribute;
- The ad is distributed no later than 10 days before the election;
- The ad is in writing (e.g. letter, flyer, etc.) but does not appear in a newspaper or other publication and is not communicated electronically.

You alleged that Juan Orozco sponsored political advertising which failed to include sponsor identification. We found that:

- Juan Orozco sponsored a political advertisement opposing the Wapato School District bond measure on the November 2, 2004 general election ballot, and did not include sponsor identification on the mailing.
- Mr. Orozco said that he did not identify himself on the flyer because he was concerned about retaliation against himself or his family. He stated that his family has been the target of vandalism and threats of violence in the past.
- Mr. Orozco acted on his own behalf. He personally produced and distributed the ad. He mailed it to approximately 100 recipients, and did not distribute it in any other manner. He received no donations from others to assist with his effort.
- The ad opposed a local ballot proposition and cost less than \$100 to produce and distribute. The ad was in writing and did not appear in a newspaper or other publication or in an electronic medium. The ad was distributed four days before the election.

The circumstances of the ad sponsored by Mr. Orozco are substantially consistent with the facts present in the U.S. Supreme Court decision for leaving off sponsor identification on political advertising. Thus, no enforcement is warranted in this instance.

You also alleged that Mr. Orozco failed to report expenses for phone banking and political advertising as a political committee, or as independent expenditure. We found that:

- There was no evidence that the production and distribution of Mr. Orozco's mailing involved the resources of anyone other than Mr. Orozco. In addition, his expenditures totaled \$52. Thus, his activities were not those of a political committee, and did not need to be reported as an independent expenditure.
- While participating in get-out-the-vote phone banking for the Southwest Voter Registration and Education Project, Mr. Orozco made one phone call to Mary Kay Dabalos, in which he stated his opposition to the Wapato School District bond measure. There was no evidence that Mr. Orozco conducted phone banking that constituted a reportable political committee expenditure or independent expenditure in opposition to the bond measure.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation and, with the concurrence of the Chair of the Public Disclosure Commission, I am dismissing your complaint against Juan Orozco.

If you have questions, please feel free to contact Phil Stutzman, Director of Compliance, at (360) 664-8853 or toll free at 1-877-601-2828.

Sincerely,

Vicki Rippie
Executive Director

Enclosure

c: Juan Orozco